

REMARKS/ARGUMENTS

1.) Claim Amendments

The Applicants have amended claims 74, 75, 76, 77 and 81. Accordingly, claims 74-77 and 81-96 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

2.) Claim Rejections – 35 U.S.C. § 101

Claim 74-76 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. In response, the Applicant has amended claims 74-76 to recite statutory subject matter. Therefore, the allowance of claims 74-76 is respectfully requested.

3.) Claim Rejections – 35 U.S.C. § 103(a)

Claims 74, 77, 81-84, and 87-90 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kinrot (US Patent 6574193) in view of Nishio, et al. (US Patent 6192039), or alternatively, Nishio in view of Kinrot. The Applicant has amended the claims to better distinguish the claimed invention from Kinrot and Nishio. The Examiner's consideration of the amended claims is respectfully requested.

Independent claims 74, 77, and 81 have been amended and now recite that each maximum information transmission rate is dependent upon a Coder-Decoder used by the respective mobile terminal and information transmitted between the respective mobile terminal and the access node. Support for these amendments are found on page 8, lines 4-6 of the Applicant's specification.

Furthermore, the Applicant respectfully traverses the Examiner's rejections and submits the following remarks for the Examiner's favorable reconsideration. To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in

the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations (MPEP 2143).** In that regard, the Applicant respectfully submits that the Examiner's two references still fail to teach or suggest each and every element of the presently pending independent claims.

Claim 81 recites:

81. A method for controlling a communication rate for transmission of information between mobile terminals in a wireless telecommunication system having a core network and a plurality of access nodes in communication with the core network, comprising the steps of:

determining a maximum information transmission rate along each air interface established between an access node and a respective mobile terminal, wherein each maximum information transmission rate is dependent upon a Coder-Decoder used by the respective mobile terminal and information transmitted between the respective mobile terminal and the access node;

selecting the lowest one of the plurality of maximum information transmission rates, and

authorizing a communication rate no greater than the selected lowest rate.

(emphasis added)

The Examiner stated that Kinrot discloses determining a maximum information transmission rate along a first air interface. The Applicant respectfully disagrees with this characterization. Kinrot discloses a variable-rate encoding apparatus operative to receive data and process the data for transmission through a network comprising a processor, which determines a degree of circuit congestion responsive to the status of a cell queue associated with at least one virtual circuit of the network; a variable-rate encoder, operative to encode the received data so as to provide encoded data packets to the at least one virtual circuit at a rate that is selected responsive to the degree of circuit congestion and a bit rate selector wherein the apparatus suitable for an ATM network and wherein the processor determines a mean bit rate of the encode data

packets to be output by the encoder as a function of the circuit congestion, and wherein the bit rate selects one of a plurality of discrete, applicable bit rates of the encoder responsive to the mean bit rate. Thus, the transmission rate in Kinrot may be more or less than the lowest one of the plurality of maximum information transmission rates as recited in the claims. Therefore, Kinrot does not teach or suggest finding a maximum information transmission rate. Nishio also does not teach or suggest this limitation.

Furthermore, the Applicant has amended independent claims 74, 77, and 81 to recite that the maximum information transmission rate is dependent upon a Coder-Decoder used by the respective mobile terminal and information transmitted between the respective mobile terminal and the access node. Neither Kinrot nor Nishio teach or suggest this limitation.

In addition, Kinrot does not disclose comparing the maximum information transmission rates and selecting the lowest rate. On page 19 of the Office Action, the Examiner equates a selection of a plurality of transmission rates with comparing two air interface maximum information transmission rates. The Applicant respectfully disagrees. As discussed above, Kinrot is merely concerned with comparing stress levels determined by an algorithm. Kinrot goes into great detail on determining these stress levels where the stress level is derived from several variables. These stress levels are not equivalent to the maximum information transmission rate of the Applicant's invention.

In addition, Kinrot is entirely concerned with congestion control in an ATM network and does not address issues arising in connection with access nodes in an ATM network and does not address issues arising in connection with access nodes and air interfaces in a wireless communications network. In regards to Nishio, Nishio discloses a method of flow control and discloses both the core network and a wireless communication network. Although Nishio discloses both a core network and a wireless communications network, Nishio merely discloses flow control at the ATM node and does not address control in a wireless network, specifically, the control of air interface resources and monitoring of the availability of the resources based on the condition of at least two air interfaces and the nature of the information being transmitted over each air

interface. Additionally, Nishio is only concerned with flow control at the time of a handoff without any discussion of flow control at all times.

Thus, the combination of Kinrot and Nishio fails to teach or suggest all of the elements as recited in independent claims 74, 77, 81 and 87. Claims 82-84 depend from amended claim 81 and recite further limitations in combination with the novel elements of claim 81. Claims 88-90 depend from claim 87 and recite further limitations in combination with the novel elements of claim 87. Therefore, the allowance of claims 74, 77, 81-84, and 87-90 is respectfully requested.

The Examiner rejected claims 91-96 under 35 U.S.C. § 103(a) as being unpatentable over Kinrot in view of Nishio, or alternatively, Nishio in view of Kinrot, further in view of Rasanen (US Patent 6118834). The Applicant respectfully traverses the rejection.

Independent claim 91 contains limitations analogous to claim 87. As discussed above, the combination of Kinrot and Nishio fails to teach or suggest determining a maximum information transmission rate for two air interfaces, or selecting the lowest of the rates. Kinrot discloses determining a stress level which takes into account many factors to derive the stress level. This stress level may be below the maximum information transmission rate disclosed in the Applicant's invention. The addition of Rasanen does not make up the missing elements.

Thus, the combination of Kinrot, Nishio and Rasanen does not teach or suggest all the elements as recited in claim 91. Claims 92-96 depend from claim 91 and recite further limitations in combination with the novel elements of claim 91. Therefore, the allowance of claims 91-96 is respectfully requested.

The Examiner also rejected claims 75 and 85 under 35 U.S.C. § 103(a) as being unpatentable over Kinrot in view of Nishio, or alternatively, Nishio in view of further in view of ITU-T Recommendation I.366.1, Segmentation and Reassembly Service Specific Convergence Sublayer for the AAL Type 2 ("ITU-T"). The Applicant has amended the claims to better distinguish the claimed invention from Kinrot, Nishio, and ITU-T. The Examiner's consideration of the amended claims is respectfully requested.

As discussed above, the combination of Kinrot and Nishio does not teach all the limitations as recited in independent amended claims 74 and 81. The addition of ITU-T does not make up the missing elements. In addition, claim 75 depends from amended claim 74 and recites further limitations in combination with the novel elements of claim 74. Claim 85 depends from amended claim 81 and recites further limitations in combination with the novel elements of claim 81. Therefore, the allowance of claims 75 and 85 is respectfully requested.

The Examiner rejected claims 76 and 86 under 35 U.S.C. § 103(a) as being unpatentable over Kinrot in view of Nishio, and further in view of Brueckheimer, et al. (US 6,574,224). The Applicant has amended the claims to better distinguish the claimed invention from Kinrot, Nishio, and Brueckheimer. The Examiner's consideration of the amended claims is respectfully requested.

As discussed above, the combination of Kinrot and Nishio does not teach all the limitations as recited in independent amended claims 74 and 81. The addition of Bruckheimer does not make up the missing elements. In addition, claim 76 depends from amended claim 74 and recites further limitations in combination with the novel elements of claim 74. Claim 86 depends from amended claim 81 and recites further limitations in combination with the novel elements of claim 81. Therefore, the allowance of claims 76 and 86 is respectfully requested.

In light of the amendments to the claims and the above remarks, Applicants respectfully suggest that this ground for rejection has also been overcome.

CONCLUSION

In view of the foregoing remarks, the Applicants believe all of the claims currently pending in the Application to be in a condition for allowance. The Applicants, therefore, respectfully request that the Examiner enter this Amendment, withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicants request a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

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